

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
HUNTINGTON DIVISION**

**CHRISTOPHER FAIN; ZACHARY  
MARTELL; and BRIAN MCNEMAR,**  
Individually and on behalf of all others  
similarly situated,

**Plaintiffs,**

**Civil Action No. 3:20-cv-00740  
Hon. Robert C. Chambers, Judge**

**v.**

**WILLIAM CROUCH**, in his official capacity as  
Cabinet Secretary of the West Virginia  
Department of Health and Human Resources;  
**CYNTHIA BEANE**, in her official capacity as  
Commissioner for the West Virginia Bureau for  
Medical Services; **WEST VIRGINIA  
DEPARTMENT OF HEALTH AND HUMAN  
RESOURCES, BUREAU FOR MEDICAL  
SERVICES; TED CHEATHAM**, in his official  
Capacity as Director of the West Virginia Public  
Employees Insurance Agency; and **THE  
HEALTH PLAN OF WEST VIRGINIA, INC.**

**Defendants.**

**DEFENDANTS WILLIAM CROUCH, CYNTHIA BEANE, AND WEST VIRGINIA  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES, BUREAU FOR MEDICAL  
SERVICES'S CONSENT MOTION TO EXTEND TIME TO FILE REPLY  
IN SUPPORT OF MOTIONS TO DISMISS**

Now come the Defendants, William Crouch, Cynthia Beane, and the West Virginia Department of Health and Human Resources, Bureau for Medical Services ("WVDHHR"), by counsel Lou Ann S. Cyrus, Roberta F. Green, Caleb B. David, Kimberly M. Bandy, and Shuman McCuskey Slicer PLLC, and move the Court for an extension of time to file a reply memorandum to Plaintiffs' Combined Opposition to Defendants William Crouch, Cynthia Beane, and West

Virginia Department of Health and Human Resources, Bureau for Medical Services’ Motions to Dismiss [ECF 50]. The Plaintiffs’ combined brief in opposition, by leave of Court, responds to two motions to dismiss and, at 33 pages in length, exceeds the customary page limit for a response brief. The moving Defendants now request a ten-day extension of the reply deadline so that their reply memorandum would be due on or before March 19, 2021. Counsel for all parties have indicated they do not object to the extension of time sought in this motion.

In support of their motion, the moving Defendants state:

1. Defendants Crouch, Beane and WVDHHR filed a Motion for Partial Dismissal of Plaintiffs’ Class Action Complaint on January 11, 2021, [ECF 23] and a Motion to Dismiss Plaintiffs’ Class Action Complaint on February 2, 2021 [ECF 32].

2. On February 10, 2021, Plaintiffs filed their Consent Motion to Extend Time and File Combined Brief for Response to Motions to Dismiss Filed by Defendants Crouch, Beane, and West Virginia Department of Health and Human Resources. [ECF 34]. Plaintiff’s Consent Motion sought an extension of the deadlines for responding to the motions so that they could oppose the motions at the same time, as well as leave to file a collective response totaling not more than 40 pages in length. The Defendants consented to the relief sought by Plaintiffs, and the Motion was granted by the Court by Order entered on February 11, 2021. [ECF 35].

3. Local Rule of Civil Procedure 7.1(a)(7) provides that “reply memoranda shall be filed and served . . . within 7 days from the date of service of the memorandum in response to the motion.” Pursuant to the Local Rule, the reply would be due on March 9, 2021.

4. Plaintiffs’ combined response, not including the signature page, is 33 pages in length. [ECF 34]. Plaintiffs’ combined response also incorporates and responds to the arguments raised in both motions filed by Defendants Crouch, Beane, and the WVDHHR.

5. Given the length and number of arguments addressed in the combined response by Plaintiffs, counsel for the moving defendants requests a short extension of time to fully reply to the combined response and asserts that good cause exists for a brief extension of the reply deadline to March 19, 2021.

6. Plaintiffs have consented to the relief requested. Counsel for all parties have indicated that there is no objection. The brief 10-day extension will not cause significant delay and is reasonable in light of the matters at issue.

Accordingly, William Crouch, Cynthia Beane, and the West Virginia Department of Health and Human Resources, Bureau for Medical Services respectfully request an extension of the deadline for filing their reply memorandum to Plaintiffs' Combined Opposition to Defendants William Crouch, Cynthia Beane, and West Virginia Department of Health and Human Resources, Bureau for Medical Services' Motions to Dismiss [ECF 50] from March 9, 2021, to March 19, 2021.

**WILLIAM CROUCH, CYNTHIA BEANE, and  
WEST VIRGINIA DEPARTMENT OF  
HEALTH AND HUMAN RESOURCES,  
BUREAU FOR MEDICAL SERVICES,  
By Counsel**

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HEALTH PLAN OF WEST VIRGINIA, INC.**

**Defendants.**

**CERTIFICATE OF SERVICE**

Now come Defendants William Crouch, Cynthia Beane and West Virginia Department of Health and Human Resources, by counsel, and do hereby certify that on the 5th day of March, 2021, the foregoing **“DEFENDANTS WILLIAM CROUCH, CYNTHIA BEANE, AND WEST VIRGINIA DEPARTMENT OF HEALTH AND HUMAN RESOURCES, BUREAU FOR MEDICAL SERVICES’S CONSENT MOTION TO EXTEND TIME TO FILE REPLY IN SUPPORT OF MOTIONS TO DISMISS”** was electronically filed with the Clerk

of the Court using the CM/ECF system, which will send a Notice of Electronic Filing to, and constitutes service upon:

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